Whether under the Bankruptcy Act of 1867 adjudication could be had on a voluntary petition during the pendency of an involuntary petition was variously decided. *In re Stewart,* Fed. Cas. No. 13,419, held it could not. *In re Canfield,* Fed. Cas. No. 2380, *contra.* In the present case, administration under the voluntary petition would have worked injustice by making unassailable certain preferences by reason of the expiration of the four-months' limitation fixed by Section 60 of the Act of 1898.

BANKRUPTCY—PREFERENCE—SURRENDER.—IN RE GRETH, 112 Fed. 978 (Penn.).—A creditor received preferences of a bankrupt and contested his right to a lien upon bankrupt's estate until final judgment of State Supreme Court in favor of trustee. Subsequently creditor proved his claim before a referee with surrender of preferences. *Held,* that this constituted no voluntary surrender within Act of 1898, Section 57, and claim should be rejected.

Authorities greatly vary as to what constitutes a surrender and how far proceedings may go leaving the right to surrender. It has been repeatedly held that surrender may be made at any time before final entry of judgment. *In re Riordan,* 14 Nat. B. R. 332, and cases cited. Voluntary surrender is a prerequisite to right to prove claim. *In re Lee,* 14 Nat. B. R. 89. Under act of 1898 the few cases which have considered the subject have left it in an unsettled state. *In re Richards,* 94 Fed. 633, and *In re Owings,* 109 Fed. 624, holding directly the contrary. In the principal decision the court follows the very recent case. *In re Keller,* 109 Fed. 126, against the weight of authority, but not without support.

BANKRUPTCY—PREFERENCE—WARRANT OF ATTORNEY TO CONFESS JUDGEMENT—CONSTRUCTION SECT. 3, CLAUSE 3, BANKRUPTCY ACT JULY 1, 1898.—WILSON BROS. v. NELSON, 7 Am. B. R. 142, 22 Sup. Ct. 74.—A judgment was entered and execution levied thereon upon an irrevocable warrant of attorney to confess judgment given 1885, and the insolvent debtor failed to vacate or discharge executor by filing a petition of bankruptcy at least five days before. *Held,* this was a preference "suffered or permitted" under Sect. 3, Clause 3, and constituted an act of bankruptcy irrespective of intent or ability to prevent. Fuller, C. J.; Shiras, J.; Brewster, J.; Peckham, J., dissenting.

This decision reverses *Wilson v. City Bank,* 17 Wall. 413; *Clark v. Iseliro,* 21 Wall. 360; *National Bank v. Warren,* 96 U. S. 539, decided under act of 1867, and also *Buckingham v. McLean,* 13 How. 150, under act of 1841, where the issues were the same. The interest centers upon the interpretation of Sec. 3. Clause 3: *"having suffered or permitted while insolvent, any creditor to obtain a preference through legal proceedings, and not having, at least five days"* before execution *"vacated or discharged"* same. The former acts expressly include *intent* to prefer. In the present case the debtor is passive. The dissenting opinion ably shows that under the statute an *act* is necessary to constitute bankruptcy, that an act and volition are in law inseparable from each other, and that the warrant of attorney was not made in view of the provisions of the Act of 1898. The State decisions show much divergence.

COMMON CARRIER—EXPULSION FOR NON-PAYMENT OF FARE.—UNITED RAILWAYS & ELECTRIC CO. v. HARDESTY, 51 Atl. 406 (Md.).—Plaintiff presented detached coupon to conductor, who rang up fare and then demanded to see